IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.3386 OF 2004

Balkrishna Shreedhar Sawant
and others ... Petitioners

versus

Slum Rehabilitation Authority
and others ... Respondents

Mr.Shailesh Shah i/by Tamhane & Co; adv. for petitioners.

Mr.G.D.Utangale, adv. for respondent no.1.

Ms.P.A.Purandare, adv. for respondent no.2.

S.G.Surana, adv. for respondents 3 and 4

Mr.P.M.Palshikar, adv. for respondent no.5.

CORAM : H.L.GOKHALE AND
S.C.DHARMADHIKARI, JJ.

DATE : 8th February 2005

PC :

1. Heard Mr.Shah in support of this petition, Mr.Utangale for respondent no.1, Ms.Purandare for respondent no.2 and Mr.Surana for respondents 3 and 4.

2. First ten petitioners in this petition claim to be occupants of land CTS No.718 situated at

Ambekar Marg, Naigaon. They are tenants of second respondent Municipal Corporation along with some 55 others. A plot adjoining to the plot occupied by them is numbered CTS No.111. That plot was having a slum consisting of 272 hutments. The case of the petitioners is that a parcel of this plot no.718 on which their tenements are situated, has been wrongly clubbed in plot no.111. Plot No.111 is being developed by respondent no.4 developer after following due process of law. A society is formed by those slum dwellers, which is respondent no.3 society.

3. The submission of petitioners is that they should be detached from this respondent no.3 society and should be included in the development which is being brought about by petitioner no.11 on their behalf. As stated above, principal submission is on the basis of maps from the office of City Survey and on that basis it is submitted that they have been wrongly clubbed into plot no.111. It is also submitted by Mr.Shah for the petitioners that the developer of plot no.718 will be giving the tenants an area of 300 sq. ft. in the redevelopment as against 225 sq. ft. which are to be given by respondent no.4 developer when the development comes on plot

no.111. Needless to state that development of plot no.718 is as per Regulation 33(7) of the D.C.Regulations framed under the Maharashtra Regional & Town Planning Act whereas the one of plot no.111 is under Regulation No.33(10) of D.C.Regulations.

4. Replies have been filed by respondent nos.3 and 4 as well as by respondent no.1 to oppose this petition. It is pointed out on behalf of developer that way back in 1997 Municipal Corporation had issued a certificate to respondent no.3 society certifying that there were slums on a part of Plot No.718(P) also. Annexure-II, as required under statutory scheme, was drawn in July 1997 which included the names of ten petitioners. All these years their names appeared in the scheme of plot no.111 and now the development has started. The buildings which are to be constructed for the slum dwellers are in full swing and photographs of the construction are annexed to the further affidavit of developer filed on 9th December 2004.

5. We have considered the submissions of both sides. As far as rights of petitioners are concerned, they are principally to get

accommodated in the redeveloped scheme. The minimum area to be made available is 225 sq.ft.. Even under Appendix-III (sub clause 2), the maximum area admissible is up to 70 sq. mtrs.. It is nobody's case that area under occupation of the petitioners is in any way more than 225 sq. ft. so that they can claim as a matter of right any such area more than 225 sq. ft.. They should get 225 sq.fts. area, whether in Scheme-A or Scheme-B. As far as part of land of Municipal Corporation going in slum scheme, it is a matter for the Corporation to consider as to whether it should claim anything for the part of the plot of land which if at all according to it has wrongly been handed over to the developer of respondent no.3 society. That is a matter entirely between the Municipal Corporation, respondent no.3 society and developer of respondent no.4. There are no particular special rights of the petitioners which are affected in this development. No reason to interfere. Petition rejected.

(H.L.GOKHALE, J.)

(S.C.DHARMADHIKARI, J.)